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HEAD, JOHNSON & KACHIGIAN			A, PHI DIEU TRAN	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/812,121

Filing Date: March 16, 2001

Appellant(s): LANGHOLZ ET AL.

Mark G. Kachigian
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/19/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1, 7 and 8 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

2,922,501	Wilson	1-1960
5,961,145	Schillinger et al	10-1999

4,899,500 Miller et al 2-1990

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1, 4, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (2922501) in view of Miller et al (4899500) and Schillinger et al (5961145).

Wilson (figure 1) shows a mobile communication tower having a trailer having a chassis (28) mounted on two or more wheels (10), a hitch (12), a plurality of chassis guy wire (54, 56) attaching points and a plurality of leveling mechanisms (26), a plurality of pivotally mounted outriggers (48) providing support and stabilization to the structure, each outrigger having an outrigger guy wire attaching point (figure 2) and a foot, the lower end of each guy wire is attached to an outrigger guy wire attaching point, a telescopic tower (30, 31) pivotally mounted on the trailer, a mechanism (36) to raise and lower the tower, a plurality of tower guy wire attaching points on the tower, a plurality of guy wires each with an upper end attached to one of the tower guy wire attaching points and a lower end attached to one of the chassis guy wire attaching points.

Wilson does not show a plurality of outriggers pivotally mounted to the chassis, the outriggers swing radially about an axis parallel to the tower, the foot being vertically adjustable.

Miller et al shows foot (8) being vertically adjustable to allow for compensate with different ground levels.

Schillinger et al (figures 2a-3e) shows a plurality of pivotal outriggers (30, 32) mounted to the chassis (24) and the outriggers swing radially outward parallel to the vertical axis to provide support and stabilization for structure in use.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wilson to show a plurality of outriggers pivotally mounted to the chassis, the outriggers swing radially about an axis parallel to the tower as taught by Schillinger et al, the foot being vertically adjustable as taught by Miller because having a plurality of outriggers pivotally mounted to the chassis, the outriggers swing radially outward parallel to the tower would provide support and stability to the chassis when a mast is raised as taught by Schillinger et al, and having the foot of the pivotally mounted chassis outriggers being adjustable would allow for compensation of the different height of the supporting floor levels of the supporting structure as taught by Miller et al.

3. Claims 3, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson (2922501) in view of Schillinger et al (5961145).

Wilson shows a method of stabilizing a mobile communication tower having the steps of leveling a trailer having a chassis (28) mounted on two or more wheels (10), a hitch (12) a plurality of chassis guy wire attaching points, moving the tower pivotally mounted to a chassis on the trailer from a horizontal (dotted figure) to a vertical position (solid figure), moving a

plurality of pivotally mounted outriggers (48) from a retracted to an extended position to provide support and stabilization to the structure, attaching upper ends of a plurality of guy wires to the erected tower, attaching the lower ends of the guy wires to the chassis of the trailer and tightening the plurality of guy wires.

Wilson does not show the steps of moving a plurality of outriggers pivotally mounted to the chassis from a retracted to an extended position.

Schillinger et al (figures 2a-3e) shows a plurality of pivotal outriggers (30, 32) mounted to the chassis (24) and the outriggers swing radially outward to provide support and stabilization for structure in use.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wilson to show a plurality of outriggers pivotally mounted to the chassis being moved from a retracted to an extended position because having a plurality of outriggers pivotally mounted to the chassis would provide support and stability to the chassis when the mast is raised as taught by Schillinger et al.

Wilson as modified by Schillinger et al shows all the claimed limitations. The claimed method steps of stabilizing a tower would have been the obvious method steps of stabilizing Wilson's modified structures.

Response to Arguments

Applicant's arguments filed 10/27/04 to claims 1, 3, 4, 6-10 have been fully considered but they are not persuasive.

With respect to applicant's statements to the outriggers of Wilson, examiner agrees that Wilson does not show the "outriggers" on the chassis, as was pointed out in the last office action. Wilson, however, shows outriggers with guy wire attaching points on a substructure supporting the chassis, and the chassis has attaching points for the guy wires as shown in figure 1 and wires (54, 56) attaching to the chassis. The limitations of "a plurality of chassis guy wire attaching points" are shown by figure 1 and not ignored.

With respect to Miller, the secondary reference is to an erected tower structure brought to site when needed. The reference teaches using a foot used to compensate for different ground levels to stabilize a structure. The primary reference Wilson also is to an erected tower brought to site when needed. The Wilson reference needs to be stabilized when brought to site. The feature of a foot taught by Miller enhances the stability of Wilson's structure as the foot allows for the compensation of the different height of the supporting floor levels of the supporting structure and is thus desired.

With respect to Schillinger et al, examiner would like to point out that the reference teaches outriggers attached to a chassis. The chassis needs to be strongly supported laterally when the crane (22) is pivoted to different elevations, and hence the outriggers. Although Schillinger et al teach a vehicle mounted crane, the art is analogous to Wilson's structure as they both deal with a chassis supporting a heavy elongated structure atop, and the elongated structure is subjected to motion per the raising and lowering of the structure (crane or mast). The ability of the structure to withstand these forces is needed by applicant's invention, Wilson, and Schillinger et al. Both Wilson and Schillinger et al's structures need a strong stable support all around the chassis capable of supporting the motions of the elongated structures without flipping

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over. Both structures are to chassis with wheels (10) and subject to heavy loads. With respect to Schillinger et al not showing guys wires, examiner never says the reference shows guy wires. The guy wire, instead is shown by Wilson reference. The argument is to non-analogous art is thus moot.

With respect to applicant's arguments that there is no incentive to combine the three references, examiner respectfully disagrees. As pointed out in the rejection above, the incentives/motivations are provided by the references and the modification improves the structures of Wilson as set forth above. The argument is thus moot.

The arguments to claims 3 and 6 are also moot in view of the reasoning as set forth above. Wilson's reference as modified shows the upper ends of the guy wires attached to the erected tower and the lower ends of the wires to the trailer and tightening of the guy wires.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching,

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suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to do so is found in the references themselves.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Phi Dieu Tran A *PA*

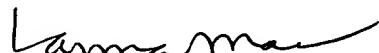
January 10, 2005

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